

2013 DRAFTING REQUEST

Bill

Received: **10/15/2012** Received By: **chanaman**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget** By/Representing: **Kirby**
May Contact: Drafter: **chanaman**
Subject: **Correctional System - misc** Addl. Drafters:
Justice - criminal Extra Copies:

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to:

Pre Topic:

DOA:.....Kirby, BB0094 -

Topic:

Crime victim and Witness Surcharge revenue collections

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 11/2/2012	evinz 11/5/2012		_____			
/P1	chanaman 1/8/2013	evinz 1/9/2013	rschluet 1/9/2013	_____	sbasford 11/5/2012		State
/P2				_____	mbarman 1/9/2013		State

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: **10/15/2012** Received By: **chanaman**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget** By/Representing: **Kirby**
May Contact: Drafter: **chanaman**
Subject: **Correctional System - misc** Addl. Drafters:
Justice - criminal Extra Copies:

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to:

Pre Topic:

DOA:.....Kirby, BB0094 -

Topic:

Crime victim and Witness Surcharge revenue collections

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 11/2/2012	evinz 11/5/2012		_____			
/P1		11/5/2012		_____	sbasford 11/5/2012		State

FE Sent For:

10/2 evv 1/8/13
9/13
<END>

2013 DRAFTING REQUEST

Bill

Received: **10/15/2012** Received By: **chanaman**
Wanted: **As time permits** Companion to LRB:
For: **Administration-Budget** By/Representing: **Kirby**
May Contact: Drafter: **chanaman**
Subject: **Correctional System - misc** Addl. Drafters:
Justice - criminal Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC) to:

Pre Topic:

DOA:.....Kirby, BB0094 -


Topic:

Crime victim and Witness Surcharge revenue collections

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman	pl eev 11/5/12		_____			State

FE Sent For:

<END>

Department of Justice
2013-2015 Biennial Budget
Crime Victim and Witness Surcharge Revenue Collections
DIN 6512
September 17, 2012

As identified in the August 2012 Legislative Audit Bureau Report 12-13 "Crime Victim and Witness Assistance Surcharge Revenue" and the DOJ comments included as part of that report, the collection of crime victim and witness surcharges have lagged expectations. The following proposed statutory changes are intended to increase crime victim and witness surcharge revenues by ensuring the surcharge is assessed and by improving the ability of the state to collect assessed amounts:

The Department requests the following statutory changes:

1. Revisions to s.973.045(1)

(1) If a court imposes a sentence or places a person on probation, the court shall impose a crime victim and witness assistance surcharge. The surcharge shall be the total amount calculated by adding up the amount for each and every misdemeanor count, and each and every felony count, for which a conviction occurred, calculated as follows:

(a) For each misdemeanor ~~offense or count~~ on which a conviction occurred, \$67.

(b) For each felony ~~offense or count~~ on which a conviction occurred, \$92.

(c) The surcharge imposed under (a) or (b) may not be waived, reduced or forgiven for any reason.

2. Provision by statute that the Department of Corrections (DOC) may not retain, as supervision fees or for any other purpose, any amounts collected from inmates, or persons on parole, probation, or extended supervision, until all court-ordered obligations for which DOC has the authority to collect are discharged. In the alternative, DOC could be limited to retaining a percentage of such collections. This could be accomplished, in part, by amending 304.074(2), to add the following language:

The department shall charge a fee to probationers, parolees, and persons on extended supervision to partially reimburse the department for the costs of providing supervision and services. The department shall set varying rates for probationers, parolees, or persons on extended supervision based on ability to pay and with the goal of receiving at least \$1 per day, if appropriate, from each probationer, parolee, and person on extended supervision. The department shall not charge a fee while the probationer, parolee, or person on extended supervision is exempt under sub. (3). The

department shall collect moneys for the fees charged under this subsection and credit those moneys to the appropriation account under s. 20.410 (1) (gf). however, the department shall not collect any moneys for the fees charged under this subsection until the surcharges in s. 973.05(2m) have been paid in full.

3. Expansion of the requirements of s.973.09(3)(b). Currently, that section provides that DOC must give notice to the sentencing court on the status of restitution payments assessed against a person 90 days before a person's probation expires. The court then has the option to extend probation or convert the restitution amount to a civil judgment. These obligations could be expanded to include the crime victim and witness assistance surcharge, plus any other surcharges that fund DOJ programs. In addition, the notice and other requirements of the statute could be expanded to apply not only when a person is to be released from probation, but also when a person is to be released from parole or extended supervision."



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-03957
CMH:.....

DOA:.....Kirby, BB0094 - Crime victim and Witness Surcharge revenue
collections

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CRIME § (B)

Under current law, if a court imposes a sentence or places a person on probation, the court must impose a crime victim and witness assistance surcharge. The surcharge imposed is \$67 per misdemeanor offense or count and \$92 per felony offense or count. This bill specifies that the surcharge applies to every count. The bill also prohibits waiving, reducing, or forgiving an imposed crime victim and witness assistance surcharge.

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC charges fees to probationers, parolees, and persons on extended supervision to reimburse DOC for the costs DOC incurs for their supervision (reimbursement fees). Under this bill, DOC may not collect these fees until all costs, fees, and surcharges imposed by the court have been paid in full.

Under current law, a court may extend a term of probation, or issue a judgment for unpaid funds, if a person who is nearing the the end of his or her term of probation owes restitution or reimbursement fees. This bill allows a court to extend a term of probation, or issue a judgment for unpaid funds, if the person nearing the end of his

or her term of probation owes any ⁹part of a crime victim and witness assistance surcharge imposed on him or her.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 304.^x074 (2) of the statutes is renumbered 304.074 (2) (a) and
2 amended to read:

3 304.074 (2) (a) The Except as provided in par.[✓] (b), the department shall charge
4 a fee to probationers, parolees, and persons on extended supervision to partially
5 reimburse the department for the costs of providing supervision and services. The
6 department shall set varying rates for probationers, parolees, or persons on extended
7 supervision based on ability to pay and with the goal of receiving at least \$1 per day,
8 if appropriate, from each probationer, parolee, and person on extended supervision.

9 (b) The department shall not charge a fee while the probationer, parolee, or
10 person on extended supervision is exempt under sub. (3). The

11 (d) Except as provided in par.[✓] (c), the department shall collect moneys for the
12 fees charged under ~~this subsection and par.[✓] (a).~~ The department shall credit those
13 moneys to the appropriation account under s. 20.410 (1) (gf).

History: 1995 a. 27; 1997 a. 27, 283; 2001 a. 10⁹; 2003 a. 33.

14 SECTION 2. 304.^x074 (2) (c) of the statutes is created to read:

15 304.074 (2) (c) The department may not collect a fee charged under par.[✓](a) until
16 all costs, fees, and surcharges imposed under ch. [✓]814 have been paid in full.

****NOTE: Point 2 of the drafting request presented two alternatives to fixing the identified problem. I chose the first alternative. If you prefer the second, please let me know.

17 SECTION 3. 973.^x045 (1) of the statutes is amended to read:

1 973.045 (1) If a court imposes a sentence or places a person on probation, the
2 court shall impose a crime victim and witness assistance surcharge. A surcharge
3 imposed under this subsection may not be waived, reduced, or forgiven for any
4 reason. The surcharge is the total amount calculated by adding up the amount for
5 every misdemeanor count and every felony count as follows:

6 (a) For each misdemeanor ~~offense or~~ count on which a conviction occurred, \$67.

7 (b) For each felony ~~offense or~~ count on which a conviction occurred, \$92.

History: 1983 a. 27; 1987 a. 27; 1989 a. 31; 1993 a. 16; 1995 a. 201; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2009 a. 28; 2011 a. 32, 257; 2011 a. 260 s. 81; s. 13.92 (1) (bm)

8 ^{2.} **SECTION 4.** 973.09 (3) (bg) of the statutes is created to read:

9 973.09 (3) (bg) 1. At least 90 days before the expiration date of a probationer's
10 period of probation, the department shall notify the sentencing court and district
11 attorney that a probationer owes an unpaid surcharge imposed under s. 973.045.
12 Upon receiving notice from the department, the court shall schedule a probation
13 review hearing to be held before the expiration date of the period of probation unless
14 the probationer either pays the unpaid surcharge before the scheduled hearing date
15 or voluntarily waives the hearing. A waiver of a probation review hearing under this
16 paragraph must include an acknowledgment by the probationer that waiver may
17 result in an extension of the probation period, a modification of the terms and
18 conditions of probation, or a revocation of probation.

19 2. If the court does not extend probation, the court shall issue a judgment for
20 the unpaid surcharge and direct the clerk of circuit court to file and enter the
21 judgment in the judgment and lien docket. The judgment has the same force and
22 effect as judgments entered under s. 806.10.

23 3. At a probation review hearing scheduled under subd. 1., the department has
24 the burden of proving that the probationer owes an unpaid surcharge imposed under

1 s. 973.045[✓] and the amount of the unpaid surcharge. If the department proves by a
2 preponderance of the evidence that the probationer owes an unpaid surcharge under
3 s. 973.045[✓], the court may, by order, extend the period of probation for a stated period
4 or modify the terms and conditions of probation.

5 4. If the court does not extend or modify the terms of probation under subd. 3.,
6 the court shall issue a judgment for the unpaid surcharge and direct the clerk of
7 circuit court to file and enter the judgment in the judgment and lien docket without
8 fee. If the court issues a judgment for the unpaid surcharge, the court shall send to
9 the department a written notification that a civil judgment has been issued for the
10 unpaid fees. The judgment has the same force and effect as judgments entered under
11 s. 806.10[✓].

****NOTE: Please review this section. Under current law, the court has the
authority, when considering unpaid restitution at the the end of a probation period, to
extend probation or convert the unpaid restitution into a civil judgment. This provision
allows the court the same authority when considering unpaid crime victim and witness
assistance surcharges. The instructions request that this authority "could be expanded"
when a person is to be released from parole or extended supervision. Please review this
section and confirm that you would like similar provisions for parole and ES - I wasn't
sure if the "could be expanded" was being suggested by DOJ to you or was part of the
drafting request from you. Δ = M

Hanaman, Cathlene

From: Kirby, Peter W - DOA <Peter.Kirby@wisconsin.gov>
Sent: Tuesday, January 08, 2013 4:03 PM
To: Hanaman, Cathlene
Subject: Updated request to 0395/P1

Hi Cathlene,

For 0395/P1, can you remove the section that states DOC may not collect a fee charged until all costs, fees, and surcharges imposed under ch. 814 have been paid in full.

Thanks,

Peter



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0395/P1

CMH:eev:rs

stays

DOA:.....Kirby, BB0094 – Crime victim and Witness Surcharge revenue collections

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT *don't go*; relating to: the budget.

Analysis by the Legislative Reference Bureau

CRIMES

Under current law, if a court imposes a sentence or places a person on probation, the court must impose a crime victim and witness assistance surcharge. The surcharge imposed is \$67 per misdemeanor offense or count and \$92 per felony offense or count. This bill specifies that the surcharge applies to every count. The bill also prohibits waiving, reducing, or forgiving an imposed crime victim and witness assistance surcharge.

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC charges fees to probationers, parolees, and persons on extended supervision to reimburse DOC for the costs DOC incurs for their supervision (reimbursement fees). Under this bill, DOC may not collect these fees until all costs, fees, and surcharges imposed by the court have been paid in full.

Under current law, a court may extend a term of probation, or issue a judgment for unpaid funds, if a person who is nearing the the end of his or her term of probation owes restitution or reimbursement fees. This bill allows a court to extend a term of probation, or issue a judgment for unpaid funds, if the person nearing the end of his or her term of probation owes any part of a crime victim and witness assistance surcharge imposed on him or her.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 304.074 (2) of the statutes is renumbered 304.074 (2) (a) and
2 amended to read:

3 304.074 (2) (a) The ~~Except as provided in par. (b), the~~ department shall charge
4 a fee to probationers, parolees, and persons on extended supervision to partially
5 reimburse the department for the costs of providing supervision and services. The
6 department shall set varying rates for probationers, parolees, or persons on extended
7 supervision based on ability to pay and with the goal of receiving at least \$1 per day,
8 if appropriate, from each probationer, parolee, and person on extended supervision.

9 **(b)** The department shall not charge a fee while the probationer, parolee, or
10 person on extended supervision is exempt under sub. (3). ~~The~~

11 **(d)** Except as provided in par. (c), the department shall collect moneys for the
12 fees charged under ~~this subsection and par. (a).~~ The department shall credit those
13 moneys to the appropriation account under s. 20.410 (1) (gf).

14 **SECTION 2.** 304.074 (2) (c) of the statutes is created to read:

15 304.074 (2) (c) The department may not collect a fee charged under par. (a) until
16 all costs, fees, and surcharges imposed under ch. 814 have been paid in full.

****NOTE: Point 2 of the drafting request presented two alternatives to fixing the
identified problem. I chose the first alternative. If you prefer the second, please let me
know.

17 **SECTION 3.** 973.045 (1) of the statutes is amended to read:

18 973.045 (1) If a court imposes a sentence or places a person on probation, the
19 court shall impose a crime victim and witness assistance surcharge. A surcharge

1 imposed under this subsection may not be waived, reduced, or forgiven for any
2 reason. The surcharge is the total amount calculated by adding up the amount for
3 every misdemeanor count and every felony count as follows:

4 (a) For each misdemeanor ~~offense or count~~ on which a conviction occurred, \$67.

5 (b) For each felony ~~offense or count~~ on which a conviction occurred, \$92.

6 **SECTION 4.** 973.09 (3) (bg) of the statutes is created to read:

7 973.09 (3) (bg) 1. At least 90 days before the expiration date of a probationer's
8 period of probation, the department shall notify the sentencing court and district
9 attorney that a probationer owes an unpaid surcharge imposed under s. 973.045.
10 Upon receiving notice from the department, the court shall schedule a probation
11 review hearing to be held before the expiration date of the period of probation unless
12 the probationer either pays the unpaid surcharge before the scheduled hearing date
13 or voluntarily waives the hearing. A waiver of a probation review hearing under this
14 paragraph must include an acknowledgment by the probationer that waiver may
15 result in an extension of the probation period, a modification of the terms and
16 conditions of probation, or a revocation of probation.

17 2. If the court does not extend probation, the court shall issue a judgment for
18 the unpaid surcharge and direct the clerk of circuit court to file and enter the
19 judgment in the judgment and lien docket. The judgment has the same force and
20 effect as judgments entered under s. 806.10.

21 3. At a probation review hearing scheduled under subd. 1., the department has
22 the burden of proving that the probationer owes an unpaid surcharge imposed under
23 s. 973.045 and the amount of the unpaid surcharge. If the department proves by a
24 preponderance of the evidence that the probationer owes an unpaid surcharge under

1 s. 973.045, the court may, by order, extend the period of probation for a stated period
2 or modify the terms and conditions of probation.

3 4. If the court does not extend or modify the terms of probation under subd. 3.,
4 the court shall issue a judgment for the unpaid surcharge and direct the clerk of
5 circuit court to file and enter the judgment in the judgment and lien docket without
6 fee. If the court issues a judgment for the unpaid surcharge, the court shall send to
7 the department a written notification that a civil judgment has been issued for the
8 unpaid fees. The judgment has the same force and effect as judgments entered under
9 s. 806.10.

***NOTE: Please review this section. Under current law, the court has the authority, when considering unpaid restitution at the the end of a probation period, to extend probation or convert the unpaid restitution into a civil judgment. This provision allows the court the same authority when considering unpaid crime victim and witness assistance surcharges. The instructions request that this authority "could be expanded" when a person is to be released from parole or extended supervision. Please review this section and confirm that you would like similar provisions for parole and ES — I wasn't sure if the "could be expanded" was being suggested by DOJ to you or was part of the drafting request from you.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0395/P2
CMH:eev:rs

DOA:.....Kirby, BB0094 - Crime victim and Witness Surcharge revenue collections

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

CRIMES

Under current law, if a court imposes a sentence or places a person on probation, the court must impose a crime victim and witness assistance surcharge. The surcharge imposed is \$67 per misdemeanor offense or count and \$92 per felony offense or count. This bill specifies that the surcharge applies to every count. The bill also prohibits waiving, reducing, or forgiving an imposed crime victim and witness assistance surcharge.

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, a court may extend a term of probation, or issue a judgment for unpaid funds, if a person who is nearing the the end of his or her term of probation owes restitution or reimbursement fees. This bill allows a court to extend a term of probation, or issue a judgment for unpaid funds, if the person nearing the end of his or her term of probation owes any part of a crime victim and witness assistance surcharge imposed on him or her.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 973.045 (1) of the statutes is amended to read:

2 973.045 (1) If a court imposes a sentence or places a person on probation, the
3 court shall impose a crime victim and witness assistance surcharge. A surcharge
4 imposed under this subsection may not be waived, reduced, or forgiven for any
5 reason. The surcharge is the total amount calculated by adding up the amount for
6 every misdemeanor count and every felony count as follows:

7 (a) For each misdemeanor ~~offense or count~~ on which a conviction occurred, \$67.

8 (b) For each felony ~~offense or count~~ on which a conviction occurred, \$92.

9 **SECTION 2.** 973.09 (3) (bg) of the statutes is created to read:

10 973.09 (3) (bg) 1. At least 90 days before the expiration date of a probationer's
11 period of probation, the department shall notify the sentencing court and district
12 attorney that a probationer owes an unpaid surcharge imposed under s. 973.045.
13 Upon receiving notice from the department, the court shall schedule a probation
14 review hearing to be held before the expiration date of the period of probation unless
15 the probationer either pays the unpaid surcharge before the scheduled hearing date
16 or voluntarily waives the hearing. A waiver of a probation review hearing under this
17 paragraph must include an acknowledgment by the probationer that waiver may
18 result in an extension of the probation period, a modification of the terms and
19 conditions of probation, or a revocation of probation.

20 2. If the court does not extend probation, the court shall issue a judgment for
21 the unpaid surcharge and direct the clerk of circuit court to file and enter the

1 judgment in the judgment and lien docket. The judgment has the same force and
2 effect as judgments entered under s. 806.10.

3 3. At a probation review hearing scheduled under subd. 1., the department has
4 the burden of proving that the probationer owes an unpaid surcharge imposed under
5 s. 973.045 and the amount of the unpaid surcharge. If the department proves by a
6 preponderance of the evidence that the probationer owes an unpaid surcharge under
7 s. 973.045, the court may, by order, extend the period of probation for a stated period
8 or modify the terms and conditions of probation.

9 4. If the court does not extend or modify the terms of probation under subd. 3.,
10 the court shall issue a judgment for the unpaid surcharge and direct the clerk of
11 circuit court to file and enter the judgment in the judgment and lien docket without
12 fee. If the court issues a judgment for the unpaid surcharge, the court shall send to
13 the department a written notification that a civil judgment has been issued for the
14 unpaid fees. The judgment has the same force and effect as judgments entered under
15 s. 806.10.

****NOTE: Please review this section. Under current law, the court has the authority, when considering unpaid restitution at the the end of a probation period, to extend probation or convert the unpaid restitution into a civil judgment. This provision allows the court the same authority when considering unpaid crime victim and witness assistance surcharges. The instructions request that this authority "could be expanded" when a person is to be released from parole or extended supervision. Please review this section and confirm that you would like similar provisions for parole and ES — I wasn't sure if the "could be expanded" was being suggested by DOJ to you or was part of the drafting request from you.